



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

January 16, 2007

Rudy Schnagl
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670

RE: Comments on Tentative Waste Discharge Requirements (WDR) General Order
for Existing Milk Cow Dairies.

Dear Mr. Schnagl,

We appreciate the opportunity to comment on the Central Valley Regional Water Quality Control Board's tentative WDR for existing dairies. As you know, EPA promulgated the NDPES Permit Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs), in February, 2003. Known as the "CAFO rule," it was subsequently litigated (*Waterkeeper Alliance Inc., et al v. EPA*), and in February 2005, the Second Circuit Court issued its *Waterkeeper* decision. In response to the *Waterkeeper* decision, EPA proposed revisions to the CAFO rule on June 30, 2006 and received public comments through August 26, 2006. EPA expects to issue a final CAFO rule in July of 2007. We understand the Regional Board intends that the general WDR will meet, to the extent feasible, the NPDES requirements applicable to CAFOs, as proposed in the draft revised CAFO rule. Our review of the tentative WDR indicates most of its requirements are equivalent to, or exceed, the requirements of the draft CAFO rule. We are, however, enclosing comments to address necessary requirements for any individual WDR/NPDES CAFO permits consistent with EPA's final CAFO rule as we anticipate at this time. In addition, we have included general recommendations pertinent to the tentative WDR.

Thank you for the opportunity to comment on the Regional Board's tentative WDR. If you have any questions concerning these comments, please contact me at 415.972.3971 or John Ungvarsky at 415.972-3963.

Sincerely,

David Albricht
Manager, Ground Water Office

cc: John Menke, SWRCB
Danny Merkley, SWRCB

Enclosure

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Enclosure

General WDR Comments

1. EPA supports adoption of the WDR as an important milestone in reducing surface and ground water impacts resulting from improper manure and wastewater management at dairies.
2. In June 2006, EPA proposed revisions to the CAFO rule to clarify which CAFOs must seek NPDES permit coverage. We anticipate a final rulemaking in July 2007. Depending upon the schedule ultimately imposed by EPA's Final Rule for CAFOs that must seek NPDES permit coverage and submit and implement a nutrient management plan (NMP), the compliance schedules in Table 1 of the tentative WDR could exceed EPA's deadline (proposed as July 31, 2007). The Regional Board should be aware that an expedited schedule may be necessary for a CAFO to meet the minimum federal requirements if an individual WDR/NPDES permit is needed. In addition, the terms of the NMP will need to be included in the NPDES permit.
3. Because a surface water discharge can trigger the need for an NPDES permit, CAFOs with historic discharges may request, and/or the Regional Board may require, an NPDES permit. In addition, given that individual NPDES permits have not typically been issued to CAFOs that have discharged manure and/or wastewater, EPA would like to work with the Regional Board to develop criteria to help identify the type of discharges for which a WDR alone may not be adequate and a WDR/NPDES individual permit is needed. As a step in this process, we suggest the Regional Board consider creating a database identifying when and where CAFO discharges have occurred. Such a database, which could be posted on the Regional Board's web site, would be one tool for identifying where individual WDR/NPDES permits may be needed.
4. We strongly encourage the Regional Board to work with partners (e.g., California Dairy Quality Assurance Program, USDA Natural Resources Conservation Service, Merced County, etc.) to develop a standardized template and tools for implementing the key aspects of the NMP. A consistent and user-friendly template will provide trainers with a model for teaching producers what information is needed and how to record it, help move the dairy sector toward better nutrient management, and ease the review and approval of NMPs by the Regional Board. In addition, we recommend that the Regional Board investigate the possibility of developing web-based tools for creating and submitting the various reports required. These tools would likely provide some efficiency to the overall review and management of the reports.